

**Town of Scituate
Conservation Commission
Town Hall Selectmen's Hearing Room
Meeting Minutes
August 20, 2014**

Meeting was called to order at 6:20 p.m.

Members Present: Mr. Snow, Chairman, Mr. Harding, Mr. Parys, Ms. Scott-Pipes, and Mr. Schmid.

Also Present: Patrick Gullivan, Agent and Carol Logue, Secretary

Agenda: Motion to amend the agenda to include discussion of 7 Revere shed modification; pile driver in So. River; 159 Hollett Street; 158 Border Street; Order of Conditions for 180 Border Street; Certificate of Compliance for 343-345 Hatherly Road; and Conservation Trail maps/progress on trails. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Request for Determination: Howe, 92 Clapp Road (12' x 14' deck) (cont.)

Applicant needs to plant before we can issue a Certificate of Compliance and act on this project. Motion to continue the hearing to September 3, 2014 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Request for Determination: Digan, 104 Edward Foster Road (revetment repairs)*

Thomas & Mary Ann Digan were present at the hearing. Would like to repair the collapsing revetment. Giant boulders have been pounded around. Mr. Schmid: same size and dimensions? It didn't look like it needed boulders. Maybe 2 or 3 will be brought in. Will be exactly the same; not changing the size. Mr. Snow: who will be doing the work? The plan is vague; helpful to find someone with experience. Perhaps meet with Pat or another member for a preconstruction. We need to know the methodology of how they will go about it. Sometimes more work gets done than was approved. Just putting it back the way it was. Have spoken to Mr. Lynch. Should put the RDA number in a window. Have the permission to cross someone else's property. Motion for a negative 3 determination "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." With the condition for a preconstruction Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Request for Determination: Zucconi, 15 Priscilla Ave. (extend deck)*

Scott Valcourt, contractor was present at the hearing. Installing 5 piers for a deck extension. Ms. Scott-Pipes: Toward the water or street? Two going toward the ocean for the stairway; deck footings are toward the street; 10" sonotubes. Packed gravel on top, below clay and some sand, but not like the beach. Mr. Gullivan: no vegetation will be removed; looks like no impact to any resource area. Motion for a negative 3 determination "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Wetlands Hearing: Allan/Harris, 126 First Parish Road (addition/new building, site improvements)*

Barbara Thissell and Ralph Cole were present at the hearing. Abutters' notification was submitted 8/19/14. Mr. Schmid: disclosure of possible conflict of interest, his mother is listed as an abutter, but there is no monetary gain. Don't think it would be a problem, but applicant should be aware. Mr. Snow: believe it is Mr. Harris's call. If they are comfortable he can rule on it or if not, he can step down. Mr. Harris: Usually it is between the Commission and the applicant. He had no problem with Bill sitting in. Because Mr. Harris is one of the partners and a selectmen, Mr. Snow sent out a disclosure form and asked the Commission members to fill one out also. Mr. Gullivan: Abutters may have a problem. Mr. Schmid stepped down. This is a work yard, owned by Brian Allan, LLC. Mr. Harris has storage on property by zoning approval; class 1, 2, & 3 licenses; all above board, all permitted. Proposing to construct a building to get vehicles under a roof; not expanding uses in any way; and adding a building just for storage. Work is as far away from wetlands as possible. Because of high groundwater, can't lift the site up to put in catch basins. Taking out 7,000 sq. ft. of pavement to increase infiltration and because of that we are not increasing flow from the site, or impervious surfaces. Improving the quality of water going to the resources by maintaining vehicles under a roof. Any spills will be cleaned up within the building, which improves runoff. Met with Penny and Pat and discussed improving stormwater more, but don't have the opportunity to vegetate or increase setback to the wetland. Need space for turning vehicles. Consider the building and the improvement of getting vehicles under cover to be an improvement. Ms. Scott-Pipes: hear what you are saying, but would like to see a little more mitigation. What about in the late fall or winter, a crew goes down to the brook and removes any debris; might be helpful to clean up that area. Mr. Gullivan: all in the riverfront in a previously degraded site; trying to improve stormwater. Brad Holmes gave a report on the wetlands. If space wasn't an issue, would like more distance from the stream. Old equipment that could start leaking, may want to remove it. Wetlands are right up to the fence, there is no buffer. Chuck Harris showed an old picture; been a business for a long time. The intent is to do repairs inside. Mr. Bjorklund: Same thing as what DPW is doing on Captain Pierce Road, working above parking areas. Commercial properties are rare in Scituate. If less space, they won't be able to turn trucks around. It is not a large site; hate to see it restricted more. Pat and Frank have discussed, concerned about runoff to the Satuit Brook and the resource area around it; hoping to eliminate more contaminants. Have had people express interest in cleaning up the brook. Hoping for more spawning when dam is removed at Mordecai Lincoln. Anything we can do to keep Satuit Brook clean would be a positive. Any way you can get water flow to a rain garden? There will be a minimal amount of grading, don't want to create more problems. Removal of pavement may allow for more contamination. Natural grade is toward Northeast corner. Any way for a collection area; any of that beneficial? We shouldn't be engineering this project. What about a Cape Cod berm at the fence; very limited earthen berm. Not supposed to be bringing material into the site. Mr. Harris, Sr.: Heavy rain puddles all over the place, didn't run off, drained through. Have a little protection for the brook. Haven't seen any tires or anything behind the fence to the brook, no trash. Mr. Gullivan: usually glad to give up pavement for gravel. What would you recommend, don't want it to shoot across the pavement or get

contaminants through the gravel. It is 6 of 1 and half a dozen of the other. Benefits to each and detriments to both. Think the berm would be the best compromise. It would slow down runoff, but still let them use the property. Not supposed to take away flood storage. Rather than remove asphalt, put a berm in the depressed area. Trying to figure out another way to not have a problem with ground infiltration; trying to find a practical situation. Typically the Commission acts on what is proposed, just looking to see if there is a different way that would work for everybody. Believe a berm with some vegetation would be more beneficial than leaving the pavement. Keep the flow as it is, slower and through vegetation. A small berm 1' to 18" with vegetation would be OK. Puddles didn't go down to the fence, went straight down. Mr. Snow: rather see the asphalt in that area. Will get a revised plan. Motion to close with condition of a new plan with small berm on the back with vegetation; turn berm up the side a little Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Informal: Pesticide use at 5 Barry's Landing

Pat e-mailed Greg DiCesare at DEP. No more information is available now and probably won't be for a while. Need to know if it complies with the state regs., but on the other hand we don't want to say use whatever anywhere.

Fence Discussion: Doherty, 114-118 Edward Foster Road

Padraic Doherty was present. There is an existing fence that was put in years ago. Looking to put in a split rail fence basically in the same location in two open areas across from the boyard. Because it is in a resource area you should file an RDA. We've had issues with fences in other areas. Neighbors put in one with cement, just trying to put in something nicer. Don't see any particular reason you couldn't do it, but we have rules and DEP regs to follow. An advertisement in the paper gives abutters' a chance to know what is going on and for the Commission to know the work will be done correctly. Just trying to let people know this is private property. Mr. Snow: we do our best to control those that don't do things correctly. Need to file an RDA if the ground is disturbed.

Request to review a revised plan: Linda Kocher, 7 Revere (8' x 16' shed)

A shed was approved July 2, 2014 on an existing footprint. Would like to increase the size to 20' x 10'. Checked with building department; if the shed is larger than 200 sq. ft. you need a building permit, otherwise you don't. Still within the setback, no disturbance of vegetation, and no additional footings. It is in an A flood zone. Motion to accept the revised plan allowing the shed to be 20' x 10' Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Enforcement:

Michelle Cote, Central/Atlantic Ave. was present. Have a really small lot, bought lot across on Atlantic Drive, mostly for parking. Showed picture of lot provided by engineer from 2010 Google Maps. For 10 years have had permission to park there. Doesn't have a lot of vegetation. Abutter complained that soil was moved, and it was. Peter Armstrong cleared a section which had some vegetation, but there still is a lot there. He cleared without permission. Neighbors told her previous owners buried a lot of debris. Engineer is putting together a plan to elevate the house. Just started talking with Rockwood Design and Rivermoor. Hoping to have it done by next summer. Don't want to put money into this lot if we are going to put a house there. Mr. Gallivan: it is a coastal dune that had vegetation that got cleared, can't just change elevation. You were asked to come in on the violation letter. First you have to address the violation. Mr. Snow: You are never going to get a Notice of Intent approved until you get the violation taken care of. This is a dune that was altered. Going to have to get it restored as part of any project. Ms. Caisse: he took quite a few feet, leveled and removed dune grass. Mr. Gallivan: Can't just go leveling dunes and parking cars. Mr. Snow: they can file a NOI to temporarily store the house there and then restore the dune. Have been parking there since 2005. It would be beneficial to show it has been used for parking for years. Have to go by our regs and the state regs. Ms. Caisse: we have a picture before Mr. Armstrong lowered it. Ms. Scott-Pipes: restore dune first and foremost. If you are going to raise the house, come back then. Mr. Gallivan: When Mr. Armstrong came in, he realized he shouldn't have done that. We are not allowing parking on dunes. Maybe we need more information, more photos to figure out what has been there. We need an existing plan and a plan showing how it will be restored, including plantings; review as a whole package. Pat will talk to engineer in a couple of weeks. We need something filed by the 17th of September.

Ken Conway, 15 Eagles nest Road – 67 Collier was present. He came in today to see Pat, been out of town most of the summer; never received letter. He stated he cares about the environment and overreacted at the last meeting. Now the choices are: do I file a NOI, pull the stuff out, or receive an Enforcement Order. Will bring in my list of all the houses on Peggotty and around the spit that have violations. If he files an Abbreviated NOI, he is the only person trying to solve a problem with the environment. Busy life, doesn't want the hassle, but has already lost 20,000 sq. ft. of property in the last year. Wants some assurance that the Commission will approve, and then he will file. Mr. Snow: you served on the Commission and understand the rules and regs. When you want to do something in a resource area, you need to file. You filed an RDA and got a positive determination; the Commission felt the RDA was not applicable. Believe you said you weren't going to do anything else. Our recourse is to issue an EO. You can file a Notice of Intent to find out if what you did is going to be allowed. May have conflicting thoughts. We also are going to have to answer to DEP and their issues; we are not the total authority. Mr. Conway: thought the work that was done falls in the exception category, if it is small, then you don't have to file. Mr. Gallivan: think we are close and it is small in nature, but don't have the expertise to say it will work. Has to be done right; every beach is different. Don't think his intent is a bad one, but need a permit and an expert to tell us if the work was done correctly. Can our coastal person handle this? No, there is a science to it. A couple of names were mentioned: Jim O'Connell and Carlos Pena. Not saying don't do it, but we need an expert. Also Natural Heritage controls the area. They have to get a copy of the NOI. Ms. Caisse: what would you like to do? Last we heard we felt you were upset, and said you weren't going to spend any more money and you would pull it out. Not going to spend a \$1,000 to have someone come in and tell what you already know. There is no one in the world that can say this will work. He will file a Notice if the Commission tells him now that it will work. Commission stated they couldn't do that. So we are done. So you are going to take it out? How long do I have, going out of town again? Date was today, but apparently didn't receive the letter. Gave about a month before. You have 30 days.

148 Jericho – Russ Totman was going to do some work, but needed an engineered plan. It is finished and he used river stone, looks unbelievable. Greg Morse and Russ Totman should know they did a great job.

Butler, 439 CJCH: Request to remove two trees. A dead tree and another giant tree. Ms. Scott-Pipes: Can remove the dead tree, but only a limb from the other one, but not the whole tree; the tree is beautiful and unique. Mr. Snow will visit the site also. The tree may be dying.

Lot 2 Glades Road: Chris Lucas was out to the site. John Zimmer will represent the property owner as to why he believes this wetland could be replicated elsewhere and Chris Lucas agreed with Pat that there are values to this wetland. They will be on the September 3 agenda. Mr. Snow: can we get an idea from these scientists how much effect that wetlands has? Can they quantify how much cleansing it does, for

instance does it cleanse 100 gallons or so many cubic feet. Is there a way to determine that? Four different points he was trying to show: habitat values, good diversity of species, no invasives, quantify of stormwater, those were all reasons to keep it. Pat can ask. Big piece is they work toward recharge. Not as great a recharge area because of ledge. It will be interesting to hear. Chris is not around, but he will send somebody.

Chamberlain, Glades violation: agreed to send a check. Went out with Martha Rhinehart, we took measurements and soils. She has done a lot of salt marsh work before. Tire tracks are still there. Quite a bit of disturbance. She will do two different estimates for how much damage was done and how much it would be to restore. Everyone is waiting to hear, including DEP, Audubon and Natural Heritage.

228 Central Ave. (walls): Jeanne Akerblom was present. This came about because there is an open Order of Conditions and the applicant was requesting a Certificate of Compliance. Work is completed, but there were two walls out there that weren't included in the work, so sent a violation letter. We had a couple of storms and made out well, but had problems with getting swamped the day after. The town stockpiles material in their large open area right in front of the house and it caused a moot. The water had nowhere to go; broke their garage and flooded to 8" high in the whole downstairs, that hadn't gotten flooded in the storm. Called DPW and told them they were causing them great damage. They finally moved the fill and cleared the driveway opening. After a storm the water goes across the road. With the first pass they leave a small ridge material, but the water still crosses. The next storm her sister stayed at the house and when she got home they were stockpiling, she stopped them in time, but if there is no one right there, they stockpile. The wall is movable, just stacked two blocks up. Been there for a number of different storms, protects an area where they can't stockpile; they are not permanent. If they are removed, they will stockpile. It's a big issue, doesn't feel she can just take them away without jeopardizing her property. They lost a stairway and a garage and did not collect on insurance. Doesn't change topography, the water still goes through. It is more complicated than first thought. A lot of times don't want abutters flooded, but you have people on pilings around you. Understand you are trying to protect your property and trying for a Certificate, but you will have to amend the orders to allow the walls, or take them out. Mr. Harding feels that as long as it isn't permanent and nothing is in the ground, should be able to amend. But Mr. Gallivan stated that it functions as if it is permanent. Ms. Scott-Pipes: if it isn't permanent can a northeaster slam them into the pilings next door? No. If anything they would be covered with rock. It is pretty common to see parallel walls. There are people we could talk to like CZM that could give us some information. Maybe they would say it is a flexible situation. Right now no one seems to be harmed at all. Will have someone take a look at.

Bongarzone, 277 Chief Justice Cushing Hwy. (removal vegetation)

Heard from him today – wants to challenge the original wetland line once I told him some lawn would have to come out. Have we sent an Enforcement Order? No. Talked to Mr. Ellis this week, in order to close things out he would meet in the middle with the plantings. I told him either we can send an Enforcement Order or I can call DEP. Will call Christine Odiaga to see if someone can challenge a wetland line after the fact. I'll tell him the answer, than we can issue.

Hoss, Hatherly (tree cutting)

Haven't written a letter yet. It's the next violation letter I will write. Talked to property owner, but he said he'd wait to see the letter.

Ayer, Gardiner Road

Mr. Toomey has been contacted by Ayer's attorney and he's ready to go for a housing permit and Conservation and DPW is OK huh? Mr. Toomey said I don't think so. So after this meeting Pat is going to write a letter.

White, 181 Edward Foster Road

Found a letter under the door before the meeting tonight and the plan is to begin additional plantings on or around October 1 and continuing the process in the spring around May 1. He did respond by the 20th, need to figure out what we want next. Tell them to stop mowing. Scan the letter and send to members. Committee members will review and Mr. Gallivan will talk with them and we can have it back on the agenda in two weeks.

Barry, Monticello Street

Have received two 4 page letters sent. Mr. Snow: have they done what they were supposed to do? No. Send an Enforcement Order. I'm a little confused about the people referenced in some of their letters, not sure what the relevance is. Called them today to tell them this is what was going to happen.

Order of Conditions: O'Donoghue, 44 Crescent Avenue (raze/rebuild)

Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Duffy, 271 Central: The barge removal is the harbor master's jurisdiction, but it also impacts the riverfront area. Mark Patterson has sent two letters. Got a letter from Mark Stevenson. There is nothing in the letter that says he will be done this week. There has been no work done for over a year. Needs to be removed. Tank in the back yard also. Both should get an Enforcement Order. We shouldn't deal with the obstruction of the barge, but we want the other issues taken care of: cobble removed from the paper street, piles of debris, and the required plantings need to be completed. Will be on the agenda for the next meeting.

Order of Conditions: Pratt, 180 Central Ave. (footings for deck)

Just received the DEP File number. Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

158 Border talked to Bob Crawford, the engineer getting some information together. Wanted to be on September 3. Abutters came in and copied the file.

159 Hollett – Ms. Scott-Pipes: plan is hard to read. They are coming 45' off the back of the garage and on the original plan 45' is in the wetlands. Mr. Snow: why don't they put the fence back? Because they don't want to. Mr. Snow: Put the fence back where we conditioned it and where it is shown on the plan, and put plantings where they were supposed to be. Just conditioned this house in a sensitive area. We are not going to condition a project for one person and then have someone else come in and change it. It's just like Mr. Bongarzone that doesn't like the conditions that were put on his house. If they want to deal with some invasives, they can come in and talk to us about that, that's fine.

Discussion between Mr. Gallivan & Mr. Snow. Think the confusing part is when we met on site we discussed getting rid of invasives. We can consider that, but this was a pretty tight site. The fence needs to go back. But they didn't take the fence down. They had no idea there was supposed to be a fence there. Don't care who took the fence down. Ms. Scott-Pipes: The plan they gave us is showing plantings at the wetlands flag. It has all been altered, it is cleared and now poison ivy is coming in. They can put the plants in that they submitted, but the fence has to go back. They also want to put mulch in. No mulch should go there. Mr. Snow: This isn't like a house that has been there before the WPA, this is a brand new house. Mr. Gallivan: if they put the fence in and the original plantings they are good with that. Once that is done they can get rid of the invasives and plant something better there? That's fine, but we disagree with the plan. We can tell them we don't like their new plan. The fence was the dividing line. Mr. Snow: Have it done as soon as possible. Not going to have people come build what they want, and then someone else come in and change things because they don't like it.

Have you had a preconstruction with the Glen? Yes. Abutter came in; they didn't know what was going on.

Natural Heritage is decertifying a vernal pool. The Vernal Pool # is located on Clapp Road, but the letter says Briarwood Lane. If we want to challenge it, we have to find out how to do it. Mr. Snow: let's find out. Ms. Scott-Pipes and Mr. Gallivan went to Bongazone at Longmeadow, vernal pool could be there.

Went to Hanover saw a great map of all their Open Space and historic sites. Were you involved with that? Yes. Will bring the map to the next meeting. Cost a little bit of money. It is nice. Selectmen would like that. It is a piece we need to get going on, we have more interest. After Labor Day will hear from Kim Ryan.

Ms. Caisse will take pictures of 148 Jericho Road, water side.

Across from the entrance of Peggotty Beach Road there is a small ranch, to the left there is an empty lot. Two large houses were built behind and material washed down and the owner used that as an opportunity to clear and fill; Commission gave them orders to remove the fill and clean up the site. Mr. Gallivan: Then they came back with a plan for 8 units of condos. Not to us. It goes back a long way and it isn't cleaned up yet. Maybe we should send a letter? Yes. Think the end run was to continue to fill, but they got caught early.

261 Gannett: Gave a Minor Activity Permit to remove 2 large trees that are more than 50' away from the marsh.

CRS meeting: Helps people reduce their insurance rates in the flood zones; trying to improve the town's rating. We have a new person Nancy Durfee who is really good as our coastal person.

Toll Bros. ANRAD: Chris Lucas and co-worker went out to the site today. Ms. Scott-Pipes set them up with the additional concerned areas. Josh Bows will be doing the calcs for the isolated land subject to flooding. The report will be in next week. Commission discussed changing the meeting from the GAR Hall back to the Town Hall.

Certificate of Compliance: 17 Seventh Ave. and 148 Jericho Road are OK for a full Certificates.

CORRESPONDENCE

August 7, 2014 – August 20, 2014

1. DMF News
2. 214 Clapp – pictures on flash drive – preconstruction & construction
3. Division of Fisheries & Wildlife re: Town of Marshfield – Damons Point Road Revetment – Replace Timber Bulkhead – no adverse effect (in with filing)
4. DEP File #68-2517 – Toll Bros., Inc., Hatherly & Tilden Roads (in file)
5. DEP File #68-2518 – Pratt/ Graci, 180 Central Ave. (in file)
6. 126 First Parish Road – Project Description & Riverfront Area Analysis (in file)
7. Recording of CofC 68-2073 – Strazzula, 82 (Lot 59) Crescent Avenue (in file)
8. Recording of CofC 68-2400 – Kelly, 56 Moorland Road (in file)
9. Division of Fisheries & Wildlife – Decertification of CVP #3110 – Certified August 22, 2002! – Locational uncertainty, not property certified and should be repealed.
10. Recording of OofC 68-2516 – O'Donoghue, 44 Crescent Avenue (in file)
11. Landscape Plan – Sullivan, 159 Hollett Street (in file)
12. Request for CofC for 68-1395 – 148 Jericho Road (in file)

Meeting adjourned 8:55 p.m.
Respectfully submitted,

Carol Logue, Secretary